

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

UNIFIED WESTERN GROCERS,  
INC.; CERTIFIED GROCERS OF  
CALIFORNIA, LTD.; GROCERS  
SPECIALTY COMPANY; ALFRED  
A. PLAMANN; CHARLES  
PILLITER; DANIEL T. BANE;  
ROBERT M. LING; AND DAVID  
WOODWARD,  
  
Plaintiffs,  
  
vs.  
  
TWIN CITY FIRE INSURANCE  
COMPANY, an Indiana Corporation,  
  
Defendant.

## DECLARATION OF SAMANTHA M. BALL

I, Samantha M. Ball, declare:

1. I am Counsel at the law firm of Tucker Ellis & West LLP, co-counsel for defendant Twin City Fire Insurance Company (“Twin City”).

2. I am a member of the bar of the State of California and am admitted to practice before the United States District Court, Central District of California, the 9th Circuit Court of Appeals and the Supreme Court of the United States of

America. I have been admitted *pro hac vice* by the United States District Court, District of Hawaii, for the purpose of defending Twin City in the aforementioned matter. I submit this Declaration in support of Twin City's motion for leave to file its answer, filed concurrently herewith.

3. I have personal knowledge of all of the facts attested to in this declaration based on a reasonable investigation and could competently testify thereto if called as a witness in any legal proceeding.

4. After we learned of the settlement in the Underlying Litigation by reviewing the Court's docket, I asked Plaintiffs' counsel, on numerous occasions, to provide us a copy of the Settlement Agreement. Kim West of Tucker Ellis & West also asked Plaintiffs' counsel on numerous occasions, including in writing, for a copy of the Settlement Agreement. These requests for a copy of the Settlement Agreement began in 2005, while the coverage action was on appeal, and continued through to February 23, 2007.

5. On February 23, 2007, Tucker Ellis & West finally received a copy of the Settlement Agreement in the Underlying Litigation. The Settlement Agreement was provided to Tucker Ellis & West by Plaintiffs' counsel.

6. According to the terms of the Settlement Agreement, the Unified Defendants agreed to pay Mark J.C. Yee, as Trustee for the bankruptcy estate of Hawaiian Grocery Stores, Ltd. (the “Trustee”), and Value Recovery Group, L.P., as assignee of the Federal Deposit Insurance Corporation, Receiver of Southern Pacific Bank (“VRG”) in the amount of \$500,000.00 in full and complete satisfaction of all claims asserted by them against the Unified Defendants in the Entity Only Litigation.

7. The Settlement Agreement also provides that the Unified Defendants pay the Trustee and VRG in the amount of \$2,000,000.00 in full and complete satisfaction of all claims asserted by Plaintiffs in the Individual Litigation and the VRG Litigation.

8. On April 4, 2007, I contacted Jonathan Steiner, Plaintiffs’ counsel in this action, and requested that Plaintiffs stipulate to allow Twin City to amend its Answer to assert equitable contribution and unjust enrichment. In response, Mr. Steiner indicated that Plaintiffs would be seeking leave to amend their complaint. During this discussion, Mr. Steiner did not agree to stipulate to allow Twin City to amend its Answer. Therefore, Twin City filed its Motion for Leave to File Amended Answer.

9. Twin City’s proposed Amended Answer is attached as **Exhibit “A”** to its Motion for Leave to Amend Answer filed concurrently herewith.

I declare, under penalty of perjury, under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge based upon a reasonable investigation.

Executed this 5th day of April 2007, in  
Los Angeles, California.

/s/ Samantha M. Ball  
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Samantha M. Ball